

OGC 80-08657
9 October 1980

MEMORANDUM FOR: See Distribution

STATINTL

FROM :
Office of General Counsel

SUBJECT : Center for National Security Studies v. CIA:
Processing of FOIA Requests

REFERENCES : (A) OGC Memorandum Dated June 10, 1980,
Subj: CNSS Litigation and Interrogatories
(B) OGC Memorandum Dated October 6, 1980
(OGC 80-08549), Subj: CNSS FOIA Litigation

1. In reference A, I advised you that Plaintiffs in the CNSS litigation had served interrogatories on this Agency--legal documents demanding answers to detailed questions regarding CIA's processing of FOIA requests in general and its processing of Plaintiffs requests in particular. In reference B, I advised you the U.S. District Court had ruled--by issuing a protective order--that CIA was not required to (1) answer the detailed questions posed by Plaintiffs regarding FOIA processing or (2) provide documents concerning the Agency's FOIA policies and practices. In effect, the protective order relieved this Agency of its duty of compliance with all of the matters described in reference A above. It did not relieve you of the obligation to continue processing the twelve FOIA requests submitted by Martin Halperin or Monica Andres.

2. The protective order only relieves this Agency of the obligation (1) to answer Plaintiffs' interrogatories and (2) to

1/ Copies of Plaintiffs' discovery requests were attached to reference A. These discovery-related documents included a two page document entitled "Plaintiffs Request for Production of Documents by Defendant Central Intelligence Agency" and an eight page document captioned "Plaintiffs Interrogatories to Defendant Central Intelligence Agency--First Set." These two documents sought information and records relating to CIA's processing of all FOIA requests and the processing of the twelve requests at issue in the CNSS litigation.

produce certain documents relating to our FOIA processing practices and policies. The processing of the FOIA requests that are the subject matter of this litigation must continue. The Court has not relieved us of that obligation.

3. In affidavits and pleadings recently submitted to the Court, this Agency has indicated it will, in all likelihood, complete the processing of Plaintiffs' FOIA requests within a specified time frame. The estimated completion dates provided to the Court are set forth below:

<u>Subject Matter of Request</u>	<u>Completion Date</u>
Questionable Agency Activities (Family Jewels) (Count I)	February - March 1981
60 Footnotes in the Church Committee Report (Count II)	March - April 1981
Project II (Count III)	February - March 1981
Village Voice Damage Assessments (Count IV)	February - March 1981
Welch Assassination (Count V)	No Estimated Completion Date Given as Request is in DO Queue ^{2/}
University Guidelines (Count VI)	Processing Completed--Documents Dispatched to Plaintiffs' Counsel
Intelligence Community Budget (Count VII)	Processing Completed--Documents Dispatched to Plaintiffs' Counsel; Vaughn Affidavit Justifying Withholdings also Submitted.

^{2/} The Court was advised the Welch request would, in all likelihood, reach the head of the DO queue on or about November 16, 1980. The Court was also advised that once this request reached the head of the queue it would take approximately six months to be processed by the DO--i.e., be completed by the DO on or about May 16, 1981.

Subject Matter of Request

Completion Date

June 14, 1978 University
President's Meeting
(Count VIII)

Processing Completed--
Documents Dispatched to
Plaintiffs' Counsel

1953 Iranian Coup
(Count IX)

No Estimated Completion Date
Given ^{3/} as Request is in DO
Queue

Ten Case Files
(Count X)

February - March 1981

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French Election Manipulation
(Count XI)

No Processing Required--
Affidavit Submitted Through
which CIA Declined to Confirm
or Deny the Existence of
Responsive Documents

Overhead Photo-Reconnaissance
of the U.S.
(Count XII)

No Processing Required--
Affidavit Submitted Justifying
the Withholding of all Potentially
Responsive Photography, with
a Few Exceptions

4. This schedule was presented as an estimated period in which the various FOIA requests would complete their processing-- that is, the date at which all responsive documents would have been released in whole, in part, or withheld in their entirety. These dates do not include the time required to prepare Vaughn Affidavits nor do they reflect unanticipated events which may occur and slow processing at the component level.

5. This processing schedule reflects (1) component estimates of the time required to complete processing, (2) the time required for OGC review and coordination and (3) the realities of this litigation. It must be emphasized that each component must complete its processing as soon as possible. Of course, processing at the component level must be completed in advance of the dates set forth in the processing schedule in order for the OGC attorneys assigned to this case to have time to review proposed deletions

^{3/} No estimate was provided with regard to the time the request regarding the 1953 Iranian coup would reach the head of the DO queue. No estimate was given regarding the amount of time required to process this request.

and releases. The processing status of each request will be discussed individually with each of you in the near future and a date will be set for the submission of your proposed response to OGC.

6. Plaintiffs' counsel appears intent upon aggressively litigating this case. It is likely Plaintiffs will urge the Court to require CIA to process their requests more rapidly than the schedule set forth above. While CIA will resist these efforts, it is important for everyone to be aware of the fact that the pace of processing is, of necessity, more rapid than we would like. Although an Agency request for longer processing periods would have been preferable, it is my opinion such a request would have been fruitless. Simply put, the processing times set forth above are about the limit of the time the Court will allow CIA absent an extremely persuasive showing. Such a persuasive showing would be difficult to make since Plaintiffs are emphasizing the fact that four of the requests that have not been completed were submitted during 1976.

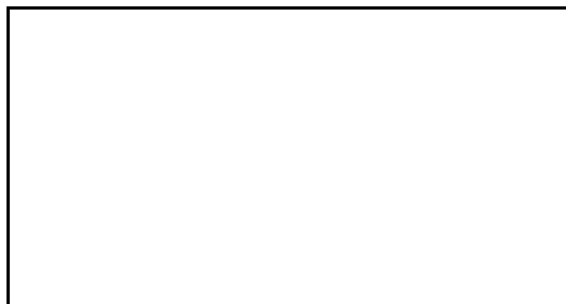
7. The seven outstanding requests should be given priority treatment to ensure they are completed in accordance with the schedule noted above. If you do not believe CIA can complete the processing of a particular request in accordance with this timetable, please call me at once.

8. If you have any questions regarding this memorandum or the CNSS litigation, please feel free to call me on extension [redacted] or to call [redacted] on extension [redacted]

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